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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GIBSON LEXBURY LLP, a Nevada limited-
liability partnership;

Plaintiff,

v.

KIMBERLY MOFFATT JONES, an
individual; 150 NEWPORT CENTER
DRIVE, LLC, a California limited liability
company; NBOC, LLC, a California limited
liability company,

Defendants.

Case No.: 2:23-cv-00560-GMN-DJA

**~~(PROPOSED)~~ JOINT DISCOVERY
PLAN AND SCHEDULING ORDER**

**SPECIAL SCHEDULING REVIEW
REQUESTED**

Plaintiff Gibson Lexbury LLP (“Plaintiff” or “GL”) by and through its counsel, Gibson Lexbury LLP, and Defendants Kimberly Moffatt Jones (“Ms. Jones”) 150 Newport Center Drive LLC (“150 NCD”) and NBOC, LLC (“NBOC”; together with Plaintiff, the “Parties”) by and through their counsel, Maier Gutierrez & Associates, hereby submit the following Proposed Discovery Plan and Scheduling Order.

I. FED.R.CIV.P. 26(F) CONFERENCE

On May 12, 2023 at 9:30 a.m. the following individuals participated in a conference call to discuss all issues addressed in Fed.R.Civ.P. 26(f):

Counsel for Plaintiff:

Steven A. Gibson, Esq. and Jodi Donetta Lowry, Esq., Gibson Lexbury LLP.

Counsel for Defendants:

Jean Paul Hendricks, Esq. of Maier Gutierrez & Associates.

II. DISCOVERY PLAN

The following discovery plan is submitted by Plaintiff and Defendant:

1. Fed.R.Civ.P. 26(a) Changes:

Pursuant to Fed.R.Civ.P. 26(a)(1)(C), the Parties should have up to and including Friday, May 26, 2023 to exchange initial disclosures. Fed.R.Civ.P. 26(a)(1)(C) obligations have not been suspended.

2. Fed.R.Civ.P. 26(f)(A-B) Scope and Timing of Discovery: Discovery should extend to the full extent allowed by the Federal Rules of Civil Procedure and should not be limited to any particular issues.

The Parties agree on the discovery cut-off date and propose the following timetables for same:

a. Discovery Cut-Off Date:

The proposed cut-off date for discovery shall be Tuesday, October 17, 2023, 180 days after Defendants' first appearance on April 20, 2023.¹

¹ Defendants note that they have filed a motion to stay discovery [ECF No. 20] during the pendency of their potentially dispositive motion to dismiss for lack of personal jurisdiction [ECF No. 11]. Defendants acknowledge that the Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending. *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 600 (D. Nev. 2011). As such, defendant will participate in discovery in good faith and agrees to the deadlines outlined in this proposed discovery plan and scheduling order unless and until the motion to stay discovery is granted.

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- b. **Amending the Pleadings and Adding Parties:** All motions to amend the pleadings or to add parties shall be filed not later than Wednesday, July 19, 2023, 90 days prior to the scheduled close of discovery.
- c. **Fed.R.Civ.P. 26(a)(2) Disclosures (Experts):** Disclosures concerning experts shall be made by Friday August 18, 2023, approximately 60 days prior to the discovery cut-off date. Disclosures concerning rebuttal experts shall be made by Monday September 18, 2023, approximately 30 days after the initial disclosure of experts.²
- d. **Dispositive Motions:** The date for filing dispositive motions shall be filed no later than Thursday, November 16, 2023, 30 days after the discovery cut-off date. In the event that the discovery period is extended from the discovery cut-off date set forth in this proposed discovery plan and scheduling order, the date for filing dispositive motions shall be extended to be not later than thirty (30) days from the subsequent discovery cut-off date.
- e. **Pretrial Order:** The date for filing the joint pretrial order shall be no later than Monday December 18, 2023, approximately 30 days after the cut-off date for filing dispositive motions.³ In the event that the discovery period is extended from the discovery cut-off date set forth in this Discovery Plan, the date for filing the joint pretrial order shall be extended in accordance with the time periods set forth in this paragraph.
- f. **Fed.R.Civ.P. 26(f)(3)(C) Pretrial Disclosures and Objections:** To be included in the joint pretrial order.

² 30 days after Friday, August 18, 2023 is a Sunday.

³ 30 days after Thursday, November 16, 2023 is a Saturday.

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- g. **Extensions or Modifications of the Amended Discovery Plan and Scheduling order:** LR-26-4 shall govern modifications or extensions of this Joint Discovery Plan and Scheduling Order.
- h. **Interim Status Report:** ~~The Parties shall file an interim status report no later than Friday, August 18, 2023, approximately 60 days prior to the close of discovery.~~
3. **Fed.R.Civ.P. 26(f)(3)(C) Electronically Stored Information:** The Parties have begun a meet-and-confer process regarding an acceptable protocol for discovery of ESI and upon agreement will submit a stipulation and proposed order regarding ESI protocol for the Court's review and approval.
4. **Fed.R.Civ.P. 26(f)(3)(D) Claims of Privilege or Protection as Trial Preparation Material:** The Parties reached no agreements on this issue at this time.
5. **Fed.R.Civ.P. 26(f)(3)(E) Changes to Limitations on Discovery Imposed Under the Fed.R.Civ.P or by Local Rules:**
 None.
6. **Fed.R.Civ.P. 26(f)(3)(F) Orders the Court Should Issue Under Fed.R.Civ.P 26(c) or Fed.R.Civ.P 16(b) and (c):** The Parties have begun a meet-and-confer process regarding a potential protective order for sensitive personal and business information.

The Parties met and conferred regarding the possibility of using alternative dispute-resolution processes including mediation, arbitration, and/or early neutral evaluation, and hereby certify that they considered and rejected consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program per General Order 2013-01.

Plaintiff made a jury demand in state court on March 31, 2023 prior to this action's removal and hereby ratify that demand in this Court. (ECF No. 7, Exhibit A-4). The Parties deferred to the time of filing of the Pretrial Order any discussion of presentation of evidence in electronic format to jurors for the purposes of jury deliberations.

III. LATER-APPEARING PARTIES

A copy of this Discovery Plan shall be served on any person who is hereafter added as a party to this action within five days of that later-appearing party's first appearance. This Discovery Plan shall apply to such later-appearing Party or Parties, unless: (1) a stipulation of the Parties is approved by this Court, or (2) this Court, on motion for good cause shown, orders otherwise.

Respectfully submitted this 26th day of May, 2023.

GIBSON LEXBURY LLP

MAIER GUTIERREZ & ASSOCIATES

/s/ J.D. Lowry

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IT IS SO ORDERED that the parties' Joint Discovery Plan and Scheduling Order is **granted in part and denied in part**. The plan includes an interim status report deadline. The Local Rules as amended on 4/17/2020 eliminated former Local Rule 26-3's requirement for Interim Status Reports. The Court will not approve an interim status report deadline as no such deadline exists under the amended Local Rules.



UNITED STATES MAGISTRATE JUDGE

DATE: 5/30/2023